

STATEMENT OF SCOPE

Department of Commerce

Rule No. : Chapter Comm 14, 61-66, 40, 43 and 45

Relating to : Wisconsin Commercial Building Code

1. Description of the objective of the rule.

The primary objective of this rulemaking project is to evaluate and update provisions of the *Wisconsin Commercial Building Code*, chs. Comm 61-66. This rulemaking update is to keep the codes consistent with dynamic, contemporary regional and national construction and fire prevention practices and standards and legislative initiatives enacted during the 2009-2010 session relating to public buildings and places of employment. The update is also necessary for us to meet the timeliness requirements for the energy conservation provisions of the *Wisconsin Commercial Building Code* as spelled out in Section 101.027(3) (b) 1 Stats.

In addition, the project will evaluate other administrative codes of the department that may be affected by the update of the *Wisconsin Commercial Building Code*, including at least chapters Comm 14, 40, 43 and 45 relating to fire prevention, gas systems, anhydrous ammonia and mechanical refrigeration. This evaluation may result in changes and the update of rules under these chapters. The objectives of this rule project may be incorporated to one or more rule packages.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

The *Wisconsin Commercial Building Code* contains standards for the design, construction, maintenance, use and inspection of public buildings and places of employment. The most recent code updates are based upon the 2009 editions of model codes developed by the International Code Council. The *Wisconsin Commercial Building Code* adopts and references the International Building Code, IBC, the International Energy Conservation Code, IECC, the International Mechanical Code, IMC, the International Fuel Gas Code, IFGC, and the International Existing Buildings Code, IEBC.

The primary purpose of the codes under consideration is to protect public health, safety, and welfare. Periodic review and update of the Codes is necessary to ensure that the Codes still achieve that purpose. In addition, the review and update allows the opportunity to recognize and stay current with new construction products and practices. The review and update process will include evaluation of the 2012 editions of the above-mentioned national model codes for incorporation.

The primary alternative would be to delay the rule-review process. This delay would reduce the public benefits that would otherwise occur by beginning this review now. Delaying also has the potential to violate the timeliness requirements associated with the energy conservation measures spelled out in Section 101.027(3) (b) 1 Stats.

3. Statutory authority for the rule.

Sections 101.02 (1) and (15), 101.027, 101.10, 101.13, 101.14 (1). (2) and (4) (a), 101.16, 101.17, 101.132, and 101.973 (1) and (2), Stats.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule.

The Department estimates approximately 2000 hours will be needed to perform the review and develop any needed rule changes. This time includes drafting the changes – in consultation with the seven specialty advisory councils and the two overarching advisory councils, the Commercial Building Code Council and the Multifamily Dwelling Code Council – and processing the changes through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

5. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

General Building Code

- Code of Federal Regulations – An Internet-based search for “federal commercial building code” and “building code regulations” in the *Code of Federal Regulations* (CFR) did not identify any federal regulations pertaining to these topics.
- Federal Register – An Internet-based search for “federal commercial building code” and “building code regulations” in the 2010 to 2011 issues of the *Federal Register* did not identify any proposed federal regulations pertaining to these topics.

Energy Conservation Requirements

- Code of Federal Regulations – The portion of the CFR relating to energy conservation for commercial buildings and facilities is found under 10 CFR 420–State Energy Program. The purpose of this regulation is to promote the conservation of energy, to reduce the rate of growth of energy demand and to reduce dependence on imported oil through the development and implementation of comprehensive state energy programs. This regulation initially required that each state’s energy conservation rules for new buildings be no less stringent than the provisions of the 2004 edition of ASHRAE Standard 90.1, *Energy Standard for Buildings Except Low-Rise Residential Buildings*.
- Federal Register – According to the *Federal Register* dated September 3, 2010, “The Department of Energy (DOE) has preliminarily determined that the 2007 edition of the Energy Standard for Buildings, Except Low-Rise Residential Buildings, American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Illuminating Engineering Society of North America (IESNA) Standard 90.1-2007, (Standard 90.1-2007) would achieve greater energy efficiency in buildings subject to the code, than the 2004 edition (Standard 90.1-2004 or the 2004 edition). Also, DOE has preliminarily determined that the quantitative analysis of the energy consumption of buildings built to Standard 90.1-2007, as compared with buildings built to Standard 90.1-2004, indicates national source energy savings of approximately 3.7 percent of commercial building energy consumption. Additionally, DOE has preliminarily determined site energy savings are estimated to be approximately 4.4 percent. If these determinations are finalized, States would be required to certify that they have reviewed the provisions of their commercial building code regarding energy efficiency, and as necessary, updated their code to meet or exceed Standard 90.1-2007. Additionally, this Notice provides guidance to States on Certifications, and Requests for Extensions of Deadlines for Certification Statements, should the preliminary determination be adopted as final.”

Accessibility Requirements

- Code of Federal Regulations – The portions of the CFR relating to accessibility in commercial buildings and facilities include the following:

1. 28 CFR 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
2. 28 CFR 36 – Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities.
3. 24 CFR 40 – Accessibility standards for design, construction, and alteration of publicly owned residential structures.
4. 24 CFR 41 – Policies and procedures for the enforcement of standards and requirements for accessibility by the physically handicapped.

Both 28 CFR 35 and 28 CFR 36 require public buildings and commercial facilities – including government-owned and -operated buildings and facilities – be designed, constructed and altered in compliance with the accessibility construction regulations specified under the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG). The purpose of 24 CFR 40 and 24 CFR 41 is to provide technical guidance on the design and construction of dwelling units as required by the federal Fair Housing Amendments Act of 1988.

The intent of the IBC and the amendments included under chapter Comm 62 is to ensure the Wisconsin construction requirements related to accessibility are equivalent to these applicable federal laws and regulations.

- *Federal Register* – Proposed federal regulations and amendments to established federal regulations for accessibility are found in the following issues of the *Federal Register*:
 1. October 24, 2008 – Design and Construction Requirements; Compliance with ANSI A117.1 (2003) Standards.
 2. August 5, 2005 – ADAAG; Corrections.
 3. December 7, 2009 – Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities.
 4. March 23, 2007 – ADAAG Supplementary Material.
 5. November 23, 2005 – ADAAG Public Rights-of-Way.
 6. April 17, 2006 – Multifamily Building Conformance with the Fair Housing Accessibility Guidelines: Improving the Methodology.

The ICC is actively monitoring the proposed changes to the federal standards affecting accessibility and will include these changes in future editions of the IBC and the corresponding ICC/ANSI A117.1–Accessible and Usable Buildings and Facilities Standard.

6. Comparison with Rules in Adjacent States.

An Internet-based search of the four adjacent states found the following regulations that include similar requirements relating to public buildings and places of employment:

- **Illinois** – Illinois does not administer a statewide building code with the exception of the 2009 International Energy Conservation Code, as of May 2011. There is no information to indicate their intentions associated with the 2012 edition.
- **Iowa** – The Iowa Department of Public Safety administers the Iowa State Building Code. Effective January 1, 2010, the department adopted the 2009 editions of the IBC, IMC, IEBC and IECC with Iowa amendments. The proposed State Building Code also adopted by reference the National Electrical Code, and the State Plumbing Code, adopted by the Iowa Department of Public Health. There is no information to indicate their intentions associated with the 2012 editions.
- **Michigan** – The Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes administers the Michigan construction codes. The 2009 Michigan Building/Residential, Rehabilitation and Energy Code Rules were filed with the Secretary of State on November 8, 2010, and become effective March 9, 2011. These codes include (all 2009 Michigan) the Building Code, Mechanical Code, Plumbing Code, Residential Code, Rehabilitation Code, Uniform Energy Code, as well as the 2008 National Electrical Code with 2008 Michigan Part 8. There is no information to indicate their intentions associated with the 2012 editions.

- **Minnesota** – The Minnesota Department of Labor and Industry Construction Codes and Licensing Division (CCLD) oversees construction-related activities in the areas of licensing, plan review, education, code development, enforcement and inspection in Minnesota. Minnesota State Building Code, which adopted the 2006 editions of the IBC, IFGC and IMC. They chose to bypass the 2009 editions of the International Residential Code (IRC), International Building Code (IBC), and International Fire Code (IFC). Minnesota will strive to have their advisory committees and the state fire chief's code committee ready to review the 2012 editions of these codes.

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DEPARTMENT OF COMMERCE

Paul F. Jadin, Secretary

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DEPARTMENT OF COMMERCE

Paul F. Jadin, Secretary